IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE V.RAMKUMAR

WEDNESDAY, THE 17TH OCTOBER 2007 / 25TH ASWINA 1929

RPFC.No. 311 of 2007()

MC.93/2002 of FAMILY COURT, KOZHIKODE

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REVISION PETITIONER:

IDAYATH, S/O.ABDURAHIMAN,
AGED 32 YEARS, MINIKKINAKAM,
HALWA BAZAR, PO KATTICHIRA
(KATTICHIRA POLICE STATION)
(NOW UNDERGOING IMPRISONMENT IN
CENTRAL PRISON, KANNUR NO.4918)

BY ADV. ADV.MANJU ANTONY(STATE BRIEF)

RESPONDENTS:

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1. N.P.SHAKEENA, D/O.MUHAMMED K
AGED 26 YEARS, KUTTIKKATTIL HOUSE
AYYAPPAN KAVUTHAZHAMVAYAL
PO CIVIL STATION, KOZHIKODE-20.

2. SAFNA (11 MONTHS) MINOR REPRESENTED
BY 1ST RESPONDENT SHAKEENA.

BY SRI.P.K.RAMKUMAR

THIS REV.PETITION(FAMILY COURT) HAVING COME UP FOR ADMISSION ON 17/10/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

V. RAMKUMAR, J.

R.P.(F.C.) No. 311 OF 2007

Dated this the 17th day of October, 2007

O R D E R

In this revision preferred from the Central Prison, Kannur the revision petitioner who is alleged to be the husband of the 1st respondent and father of the 2nd respondent, challenges the ex parte order dated 13.8.02 for maintenance passed by the Family Court, Kozhikode in M.C.No.93/2002. As per the said order, the revision petitioner was directed to pay maintenance at the rate of Rs.1,500/- per month to each of the two respondents from the date of the petition, namely 20.4.2002. In execution of the said order, the revision petitioner was arrested and committed to Central Prison, Kannur, where he continues.

2. The learned counsel appearing for the respondents submitted that they also are not desirous of continuing the imprisonment of the revision petitioner and that the respondents will be satisfied if the revision petitioner is released from prison and is directed to pay a substantial part of the maintenance in which case he may be given the opportunity of contesting the matter.

3. The total liability of the revision petitioner under the impugned ex parte order amounts to more than Rs.1,00,000/- (Rupees one lakh only). The counsel for the revision petitioner submits that the revision petitioner had already deposited a sum of Rs.10,000/-. The counsel for the respondents is unable to confirm or deny the said statement. In as much as the impugned order is an ex parte order and the revision petitioner admittedly did not enter appearance or file his objections to the M.C., I am of the view that he should be given an opportunity to contest the matter. But he cannot have the luxury of a contest without making some payment to the respondents. Accordingly, the revision petitioner is directed to be released from prison forthwith unless his continued detention is found necessary in connection with any other case against him. Soon after his release, he shall find ways and means to deposit a sum of Rs.30,000/- (Rupees thirty thousand only) before the Family Court, Kozhikode towards arrears of maintenance. The said amount shall be deposited within two months of his release from prison. If the said amount is deposited as aforesaid, the impugned ex parte order dated 13.8.02 will stand set aside and the revision petitioner shall be entitled to contest the

matter. In case the impugned order is set aside upon the revision petitioner complying with the above condition, he shall file his counter to the M.C. within three weeks thereof and the case shall be disposed of within four months thereafter. It shall be open to the respondents to file petition for interim maintenance before the Family Court in case M.C.No.93/02 is restored to file.

This revision is disposed of as above.

(V. RAMKUMAR, JUDGE)

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V. RAMKUMAR, J.

R.P.(F.C.) No. 311 OF 2007

O R D E R

17th day of October, 2007